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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**

8 **-oOo-**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 JOHN KANE, and  
ANDRE NESTOR,

13 Defendants.  
14

CRIMINAL INDICTMENT

2:11-CR- 022

VIOLATIONS:

18 U.S.C. § 1349 - Conspiracy to  
Commit Wire Fraud

18 U.S.C. §§ 1030(a)(4) and (c)(3)(A) -  
Computer Fraud

15 **THE GRAND JURY CHARGES THAT:**

16 At all times relevant to this Indictment:

17 **Introduction**

18 1. From in or about April 2009, to in or about September 2009, John Kane and  
19 Andre Nestor used an exploit on video poker machines to defraud casinos and win money  
20 to which they were not entitled. In doing so, they exceeded their authorized access on these  
21 devices and acted to conceal their fraud.

22 **COUNT ONE**

23 Conspiracy to Commit Wire Fraud

24 2. The allegations set forth in the Introduction are re-alleged and incorporated  
25 as if fully set forth herein.

26 . . . .

1           3.       From in or about April 2009, to in or about September 2009, in the State and  
2 Federal District of Nevada and elsewhere,

3                               **JOHN KANE, and**  
4                               **ANDRE NESTOR,**

5 defendants herein, did knowingly and willfully combine, conspire, and agree with others  
6 known and unknown to the grand jury to commit the crime of wire fraud, in violation of Title  
7 18, United States Code, Section 1343.

8                               The Objectives of the Conspiracy

9           4.       The objective of the conspiracy was to obtain money by defrauding gaming  
10 machines at casinos.

11                              Manner and Means of the Conspiracy

12           5.       It was part of the conspiracy that John Kane and Andre Nestor knowingly and  
13 intentionally defrauded gaming machines at casinos to obtain money that they were not  
14 entitled to obtain.

15           6.       It was further part of the conspiracy that in Las Vegas, Kane located a certain  
16 type of video poker gaming machine.

17           7.       It was further part of the conspiracy that Kane asked casino attendants to  
18 enable a certain feature on that gaming machine.

19           8.       It was further part of the conspiracy that Kane played video poker, often  
20 wagering at the lowest denomination, until he obtained a winning hand of cards and received  
21 the winnings.

22           9.       It was further part of the conspiracy that Kane then used the exploit to change  
23 the credits to a higher denomination, and to access the previous winning hand of cards.

24           10.      It was further part of the conspiracy that Kane, without playing – or paying –  
25 further, then triggered a jackpot – at the higher denomination.

26 . . . .

1           11.     It was further part of the conspiracy that Kane acted to conceal the fraudulent  
2 nature of the jackpot from the casino attendant.

3           12.     It was a further part of the conspiracy that after Kane verified that his exploit  
4 had worked, he contacted co-defendant Andre Nestor in Pennsylvania, using a wire  
5 communication across state lines, and had him travel to Las Vegas to help him engage in  
6 this conspiracy to defraud.

7           13.     It was a further part of the conspiracy that Nestor and Kane knowingly and  
8 intentionally used the same exploit to defraud gaming machines at casinos to obtain money  
9 that they were not entitled to obtain.

10          14.     It was a further part of the conspiracy that Nestor acted to conceal the fact  
11 that they were obtaining money to which they were not entitled.

12                 All in violation of Title 18, United States Code, Section 1349.

13                         **COUNT TWO**

14                         Fraud in Connection with Computers

15          15.     The allegations set forth in the Introduction and in paragraphs 2 to 14 are re-  
16 alleged and incorporated as if fully set forth herein.

17          16.     From in or about April 2009, to in or about July 2009, in the State and Federal  
18 District of Nevada,

19                         **JOHN KANE,**

20 defendant herein, did knowingly and with intent to defraud access a protected computer  
21 exceeding his authorized access and by means of such conduct furthered the intended fraud  
22 and obtained something of value, specifically, money, all in violation of Title 18, United  
23 States Code, Sections 1030(a)(4) and (c)(3)(A).

24 . . . .

25 . . . .

26 . . . .

**COUNT THREE**  
Fraud in Connection with Computers

17. The allegations set forth in the Introduction and in paragraphs 2 to 14 are re-alleged and incorporated as if fully set forth herein.

18. From in or about April 2009, to in or about July 2009, in the State and Federal District of Nevada,

**ANDRE NESTOR,**

defendant herein, did knowingly and with intent to defraud access a protected computer exceeding his authorized access and by means of such conduct furthered the intended fraud and obtained something of value, specifically, money, all in violation of Title 18, United States Code, Sections 1030(a)(4) and (c)(3)(A).

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**FORFEITURE ALLEGATION ONE**  
**Conspiracy to Commit Wire Fraud**

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3       1.       The allegations contained in Count One of this Criminal Indictment are hereby  
4       realleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant  
5       to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United  
6       States Code, Section 2461(c).

7       2.       Upon conviction of the felony offenses charged in Count One of this Criminal  
8       Indictment,

9                               **JOHN KANE, and**  
10                              **ANDRE NESTOR,**

11       defendants herein, shall forfeit to the United States of America, any property which  
12       constitutes or is derived from proceeds traceable to violations of Title 18, United States  
13       Code, Section 1343, a specified unlawful activity as defined in Title 18, United States Code,  
14       Sections 1956(c)(7)(A) and 1961(1)(B), and Title 18, United States Code, Section 1349, a  
15       conspiracy to commit such offense, an *in personam* criminal forfeiture money judgment up  
16       to \$1,500,000.00 in United States Currency.

17       3.       If any property subject to forfeiture pursuant to Title 18, United States Code,  
18       Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), as a result of any  
19       act or omission of the defendants-

- 20               a.       cannot be located upon the exercise of due diligence;  
21               b.       has been transferred or sold to, or deposited with, a third party;  
22               c.       has been placed beyond the jurisdiction of the court;  
23               d.       has been substantially diminished in value; or  
24               e.       has been commingled with other property that cannot be divided  
25               without difficulty;  
26       . . . .

1 it is the intent of the United States of America, pursuant to Title 21, United States Code,  
2 Section 853(p), to seek forfeiture of any properties of the defendants up to \$1,500,000.00  
3 in United States Currency.

4 All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28,  
5 United States Code, Section 2461(c); Title 18, United States Code, Section 1343, a specified  
6 unlawful activity as defined in Title 18, United States Code, Sections 1956(c)(7)(A) and  
7 1961(1)(B); Title 18, United States Code, Section 1349; and Title 21, United States Code,  
8 Section 853(p).

9 **FORFEITURE ALLEGATION TWO**  
10 **Fraud in Connection with Computers**

11 1. The allegations contained in Counts Two and Three of this Criminal  
12 Indictment are hereby realleged and incorporated herein by reference for the purpose of  
13 alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section  
14 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

15 2. Upon conviction of the felony offenses charged in Counts Two and Three of  
16 this Criminal Indictment,

17 **JOHN KANE, and**  
18 **ANDRE NESTOR,**

19 defendants herein, shall forfeit to the United States of America, any property which  
20 constitutes or is derived from proceeds traceable to violations of Title 18, United States  
21 Code, Section 1030(a)(4) and (c)(3)(A), or a conspiracy to commit such offense, an *in*  
22 *personam* criminal forfeiture money judgment up to \$1,500,000.00 in United States  
23 Currency.

24 3. If any property subject to forfeiture pursuant to Title 18, United States Code,  
25 Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), as a result of any  
26 act or omission of the defendants-

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be divided without difficulty;

it is the intent of the United States of America, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any properties of the defendants up to \$1,500,000.00 in United States Currency.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c); Title 18, United States Code, Section 1030(a)(4) and (c)(3)(A); and Title 21, United States Code, Section 853(p).

**FORFEITURE ALLEGATION THREE**  
**Fraud in Connection with Computers**

1. The allegations contained in Counts Two and Three of this Criminal Indictment are hereby realleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the felony offenses charged in Counts Two and Three of this Criminal Indictment,

**JOHN KANE, and**  
**ANDRE NESTOR,**

defendants herein, shall forfeit to the United States of America, any property which constitutes or is derived from proceeds traceable to violations of Title 18, United States Code, Section 1030(a)(4) and (c)(3)(A), a specified unlawful activity as defined in Title 18, United States Code, Sections 1956(c)(7)(A) and 1961(1)(B), or a conspiracy to commit such

1 offenses, an *in personam* criminal forfeiture money judgment up to \$1,500,000.00 in United  
2 States Currency.

3 3. If any property subject to forfeiture pursuant to Title 18, United States Code,  
4 Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), as a result of any  
5 act or omission of the defendants-

- 6 a. cannot be located upon the exercise of due diligence;
- 7 b. has been transferred or sold to, or deposited with, a third party;
- 8 c. has been placed beyond the jurisdiction of the court;
- 9 d. has been substantially diminished in value; or
- 10 e. has been commingled with other property that cannot be divided  
11 without difficulty;

12 it is the intent of the United States of America, pursuant to Title 21, United States Code,  
13 Section 853(p), to seek forfeiture of any properties of the defendants up to \$1,500,000.00  
14 in United States Currency.

15 All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28,  
16 United States Code, Section 2461(c); Title 18, United States Code, Section 1030(a)(4) and  
17 (c)(3)(A), a specified unlawful activity as defined in Title 18, United States Code, Sections  
18 1956(c)(7)(A) and 1961(1)(B); and Title 21, United States Code, Section 853(p).

19 **FORFEITURE ALLEGATION FOUR**  
20 **Fraud in Connection with Computers**

21 1. The allegations contained in Counts Two and Three of this Criminal  
22 Indictment are hereby realleged and incorporated herein by reference for the purpose of  
23 alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section  
24 982(a)(2)(B).

25 2. Upon conviction of the felony offenses charged in Counts Two and Three of  
26 this Criminal Indictment,



MICHAEL CHU  
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